

GENERAL ORDINANCE NO. ~~000~~ 10-17-74.

An Ordinance amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, by adding thereto "Article X, Flood Plain Management and Control."

WHEREAS, the flood hazard areas of Fort Wayne, Indiana are subject to loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare; and,

WHEREAS, these flood losses are caused by (1) cumulative effect of obstructions in flood heights and velocities; (2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to other lands are inadequately elevated or otherwise protected from flood damages; and,

WHEREAS, to push back the cost of floods, national and state policy on flood management has shifted from a primary emphasis on structural controls to a balance between structural and regulatory controls.

NOW THEREFORE, BE IT ORDAINED, By The Common Council of The City of Fort Wayne, Indiana;

Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1964, as amended, is hereby amended by adding thereto the following Article:

#### ARTICLE X - Flood Plain Management and Control

##### Section 40. General Criteria For Flood Plain Regulations.

- A. Objectives - the objective of these criteria are to provide a uniform basis for the preparation and implementation of sound flood plain regulations for Fort Wayne's rivers and streams to:
  - (1) Protect human life and health.
  - (2) Protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
  - (3) Provide for public awareness of the flooding potential.
  - (4) Minimize public and private property damage.
  - (5) Minimize surface and ground-water pollution which will affect human, animal, or plant life.
  - (6) Control flood-plain uses such as fill, dumping, storage of material, structures, buildings, and any other works which acting alone or in combination with other existing or future uses which will cause damaging flood heights and velocities by obstructing flows and reducing valley storage.

- (7) Control development which will, when acting alone or in combination with similar developments, create an unjustified demand for public investment in flood-control works by requiring that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
- (8) Control development which will, when acting alone or in combination with similar development, cause flood losses if public streets, sewer, water, and other utilities must be extended below the flood level to serve the development.
- (9) Control development which will, when acting alone or in combination with similar development, create an additional burden to the public to pay the costs of rescue, relief, emergency preparedness measures, sandbagging, pumping and temporary dikes or levees.
- (10) Control development which will, when acting alone or in combination with similar development, create an additional burden to the public for business interruptions, factory closings, disruption of transportation routes, interference with utility services, and other factors that result in loss of wages, sales, production, and tax write offs.
- (11) Help maintain a stable tax base by the preservation or enhancement of property values for future floodplain development. In addition, development of future flood-blight areas on flood plains will be minimized and property values and the tax base adjacent to the flood plain will be preserved.

Section 41. Definitions - Whenever used or referred to in this ordinance unless a different meaning appears from the context:

- A. "Board" - Board of Zoning Appeals
- B. "Commission" - Fort Wayne City Plan Commission
- C. "Flood" or "Flood Water" - means the water of any river or stream in the State or upon or adjoining any boundary line of the State which is above the bank and/or outside the channel and banks of such river or stream.
- D. "Flood Hazard Areas" - means those areas of the flood plain which have not been adequately protected from flooding by the regulatory flood by means of dikes, levees, reservoirs, or other works approved by the Commission.
- E. "Flood Plain" - means the area adjoining the river or stream which has been or may hereafter be covered by flood water.
- F. "Flood-Proofing" - a combination of structural provisions, charges, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood-hazard area.
- G. "Flood Protection Grade" - means the elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.
- H. "Floodway" (FW) see (M) "Regulatory Floodway"
- I. "Floodway Fringe" (FF) - means those portions of

- the flood hazard areas lying outside the floodway.
- J. "General Flood-Plain District" (GF) see (D) "Flood Hazard Areas"
  - K. "INRC" - The Indiana Natural Resources Commission
  - L. "Obstruction" - any dam, wall, wharf, embankment levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede retard, or change the direction of the flow of water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
  - M. "Regulatory Flood" - means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a one hundred year period, as calculated by a method and procedure which is acceptable to and approved by the Commission. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.
  - N. "Regulatory Flood Profile" - means a longitudinal profile along the thread of a stream showing the maximum water surface elevations attained by the regulatory flood.
  - O. "Regulatory Floodway" or "Floodway" - means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
  - P. "River or Stream" - shall mean all open channels, whether natural, man-made, or notified by man, which carry or discharge water.

#### Section 42. Flood Hazard Area Delineation.

The areal extent of the flood hazard area shall include all land as indicated on maps supplied by the Army Corps of Engineers, the Soil Conservation Service and the Department of Housing and Urban Development. The regulatory floodway, floodway fringe, the peak discharge and the flood profile shall be determined by the INRC utilizing the best available technology and shall be approved by the Commission.

#### Section 43. Establishment of District Boundaries.

The mapped flood-hazard areas within the jurisdiction of this ordinance are hereby designated as the GENERAL FLOOD-PLAIN DISTRICT (GF). The boundaries of this district shall be shown on the official Zoning Map. Within this district all uses not permissible by right or as special-permit uses shall be prohibited.

#### Section 44. District Boundaries Changes Thereto.

The "General Flood-Plain District" shall be divided into a "Floodway (FW)" and a "Floodway Fringe (FF) District" upon determination and delineation by the INRC and the Commission.

When this division occurs the provisions outlined in Section 46 and 47 shall automatically take effect.

Section 45. General Flood Plain District. (GF)

- A. General Provisions and Uses. It is the intent of this ordinance to control and manage the uses of land in the General Flood Plain (GF) so as to meet the objectives identified and superimposed over the existing zoning districts. However, before an Improvement Location Permit can be issued for any permitted uses, the Zoning Enforcement Officer must ascertain whether said use or accompanying structure will be detrimental to the objectives identified in Section 40. A. (1) - (11).
- B. General Use Permit. All construction, building, alteration of structures or land, change of use, or initiation of a new use in the General Flood Plain will require a "general use permit" before the issuance of an Improvement Location Permit. This "General Use Permit" shall be granted by the Zoning Enforcement Officer.
- C. Procedures Being Followed Regarding Construction in General Flood Plain District.
  - (1) All plans submitted to the Commission for either approval by the Commission or application for Improvement Location Permits will be checked against the official Zoning Map. If the site location falls within a flood hazard area a location map and letter will be submitted to the INRC for their recommendation. Until comment is received from the INRC NO action will be taken by the Commission.
  - (2) Based upon the technical evaluation of the INRC, the Zoning Enforcement Officer shall determine and evaluate the specific flood hazard at the site and shall determine the suitability of the proposed use in relation to the potential flood hazard. If he finds the proposed use suitable, he will issue a "General Use Permit". Upon issuance of this permit an Improvement Location Permit shall be issued forthwith provided the other requirements of this ordinance have been satisfied.

If upon receipt of comments by the INRC, he finds that the proposed use is unsuitable in relation to the potential flood hazard, he shall deny the application for a "General Use Permit". The applicant may then file for a hearing before the Commission if he so chooses. The applicant shall have the burden of proof to establish that the permit was wrongfully denied.

Both the Commission and the Zoning Enforcement Officer shall consider the factors listed in Section 46 D (2) when making their decision on the suitability of the proposed use.

Section 46. Floodway Districts. (FW)

- A. Permitted uses within a regulatory floodway district. The following land uses have acceptable low flood damage potential and shall not require a special permit for construction in the floodway, provided they do not involve any structure, obstruction, deposit, or excavations. This list is intended

to include examples of open space uses which will not adversely affect the efficiency of or unduly restrict the capacity of the regulatory floodway and are reasonably tolerant of the presence of flood waters.

(1) Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.

(2) Forestry, wildlife areas, and nature preserves.

(3) Park and recreational uses, such as golf courses, driving ranges, and play areas.

B. Special Exception Uses - Floodway Districts. The following uses of land may have unacceptable flood damage potential; involve structures, obstructions, deposits, or excavation which may adversely affect the efficiency of or unduly restrict the capacity of the regulatory floodway; constitute an unreasonable hazard to the safety of life or property; or result in unreasonable detrimental effects upon fish, wildlife, and botanical resources. These uses will require a "Special Permit" for construction in the Floodway as provided in "Special Permit" uses, of this ordinance. In general, these uses involve water management structures, transportation facilities, temporary or seasonal flood plain occupancy, or public, industrial, and commercial uses which are either dependent on their proximity to water or are reasonably open in nature and flood tolerant.

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation facilities.

(2) Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroads, and utility transmission facilities.

(3) Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, camps, roadside stands, and transient amusement facility sites.

(4) Water-related urban uses, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities, and water treatment facilities.

(5) Other flood tolerant or open urban uses, such as flood-proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theatres, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.

C. Standards for Floodway Special Use Permit Uses. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a special exception use which, acting alone

or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition all floodway special-permit uses shall be subject to the standards contained in Section 46 D (2) of this Article.

D. Procedures for Development Within Floodway.

(1) Any use listed in this ordinance as requiring a special use permit may be allowed only upon application to the Zoning Enforcement Officer on forms furnished by him and the issuance of a "Special Permit". Upon receipt of the application the Zoning Enforcement Officer shall forthwith submit it to the Commission.

(2) Procedure to be followed by the Commission in passing on special permits. Upon receiving an application for a special permit involving the use of fill, construction of structures, or storage of materials, the Commission shall, prior to rendering a decision thereon; request and receive the recommendation of the INRC as to the suitability of the proposed use in relation to the flood hazard. In passing upon such applications, the Commission shall consider all relevant factors specified in other sections of this ordinance:

- a. The danger of life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and flood-plain management program for the area.
- j. The safety of access to the property in times of flood or ordinary and emergency vehicles.

- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this ordinance.

E. Fill.

(1) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

(2) Such fill or other materials shall be protected against erosion by riprap, vegetation cover, or bulkheading.

F. Structures (temporary or permanent).

- (1) Structures shall not be designed for human habitation.
- (2) Structures shall have a low flood-damage potential.
- (3) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flow of flood waters.
  - b. So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.
- (4) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and,
- (5) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood-protection elevation for the particular area or flood-proofed.

G. Storage of Material and Equipment.

- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

Section 47. Floodway-Fringe District. (FF)

- A. Floodway-Fringe District. All facilities, structures, and buildings normally found in a community, such as businesses, medical facilities, community and government buildings, industrial facilities, restaurants, commercial facilities, storage facilities, utility buildings, amusement facilities, residential buildings, and civic or fraternal facilities, may be constructed in a floodway fringe district provided that the flood protection grade

for all buildings shall be at least at or above the regulatory flood profile and that the zoning shall be proper.

- B. Procedure. Before the issuance of an Improvement Location Permit, the Zoning Enforcement Officer shall determine that the proposed use meets the requirements and intent of this ordinance.

Section 48. Conditions Attached to "Special Permits".

Upon consideration of the factors listed above and the purpose of this ordinance, the Commission may attach such conditions to the granting of special permits and variances as it deems necessary to further the purposes of this ordinance.

Section 49. Nonconforming Uses.

All land uses now existing in flood hazard areas not in full compliance with this rule shall be considered a nonconforming use. Except for normal maintenance, any building which constitutes a nonconforming use may be altered, repaired, enlarged, or extended, provided such alterations, repairs, enlargements, or extensions do not increase the value of the building, excluding the value of the land, by more than fifty percent (50%) of its pre-improvement market value, and the alterations, repairs, enlargements, or extensions are not otherwise prohibited or restricted by state law or local ordinances. Any building which constitutes a nonconforming use which is damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimensions and condition, provided the damage does not reduce the value of the land by more than fifty percent (50%) of its pre-damaged market value. Any repairs, alteration, enlargements, or extensions, of any existing nonconforming use which does not involve a building is subject to the provisions of this ordinance.

Section 50. Variances.

This ordinance promulgates standards and procedures essential to assure reasonable protection to present and future uses within the flood plain. However, there may be a need from time to time, to permit variances from these standards in particular cases within areas which are almost entirely developed. The Board may grant such variances only where the following conditions are met:

- (1) The structure or use is located on a lot of one half acre or less and is surrounded by existing structures; and,
- (2) Good and sufficient cause exists for granting the variance; and,
- (3) Failure to grant the variance would result in extreme hardship to the owners of the land; and,
- (4) All possible efforts are made to minimize potential flood damages.

If the Board grants a variance according to the above, it must give written notice to the applicant. This written

notice shall include:

- (1) The fact that the proposed structure will be located in a flood prone area.
- (2) The number of feet that the lowest floor of the proposed structure will be below the 100-year flood level.
- (3) The fact that the flood insurance rates will be increased commensurate with the distance below the 100-year flood level.

This notice shall be attached to the building permit and must be displayed with it.

Section 51. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice or debris jams. This ordinance does not imply that areas outside flood hazard areas, as defined herein, will be free from flooding or flood damages. This ordinance does not create liability on the part of the State of Indiana, the INRC, the Board, the Commission, or the City of Fort Wayne, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this rule or any administrative decision lawfully made thereunder.

Section 52. Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.



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Councilman

Read the first time in full and on motion by Nuckols, seconded by V. Schmidt, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 197\_\_\_\_\_, at \_\_\_\_\_ o'clock P.M., E.S.T.

Date: 5/28/74

Charles W. Stetteman  
CITY CLERK

Read the third time in full and on motion by Nuckols, seconded by Hinga, and duly adopted, placed on its passage.  
Passed (LOST) by the following vote:

AYES 9, NAYS 0, ABSTAINED \_\_\_\_\_, ABSENT \_\_\_\_\_ to-wit:

BURNS X

HINGA X

KRAUS X

MOSES X

NUCKOLS X

SCHMIDT, D. X

SCHMIDT, V. X

STIER X

TALARICO X

DATE: 6-11-74

Charles W. Stetteman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 5-17-74 on the 11th day of June, 1974.

ATTEST: (SEAL)

Samuel J. Talarico  
PRESIDING OFFICER

Charles W. Stetteman  
CITY CLERK

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1974, at the hour of 10:00 o'clock A. M., E.S.T.

Charles W. Stetteman  
CITY CLERK

Approved and signed by me this 12th day of June, 1974, at the hour of 2:00 o'clock P. M., E.S.T.

Paul H. Frantz Jr.  
MAYOR



THE CITY OF FORT WAYNE  
office of city plan commission

G-74-05-47  
(Amended).

11 June 1974

COMMUNICATIONS FROM CITY PLAN COMMISSION

The Common Council of the  
City of Fort Wayne  
City-County Building  
Fort Wayne, Indiana 46802

Gentlemen and Ms. Schmidt:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance Number 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). The proposed ordinance is designated as:

Bill No. G-74-05-47

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this  
11th day of June 1974.

\_\_\_\_\_  
Thomas J. Offerle  
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1974, referred a proposed zoning ordinance amendment to the City Plan Commission which proposed ordinance was designated as Bill No. G-74-05-47; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 10, 1974;

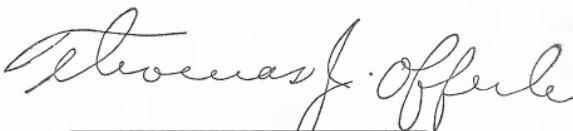
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS as amended, for the reasons that a need has been shown for the local management and control of the flood plain, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 10, 1974.

Certified and signed this  
11th day of June 1974.

\_\_\_\_\_  
Thomas J. Offerle  
Secretary



CITY PLAN COMMISSION  
City-County Building  
One Main Street  
Fort Wayne, Indiana

11 June 1974

Members of the Common Council  
City-County Building  
One Main Street  
Fort Wayne, Indiana 46802

Gentlemen and Ms. Schmidt:

Attached hereto is a copy of a resolution pertaining to one (1) zoning ordinance amendment acted upon by the City Plan Commission at a special meeting held June 10, 1974. In addition to the reasons outlined in the resolution, the following additional remarks pertain to the ordinance involved:

1. Bill No. G-74-05-47 (Amended)

A. Recommendation: DO PASS

B. Reasons:

(1) This ordinance is in response to the City's recent application for participation in the Federal Flood Insurance Program.

(2) This commitment obligates the City to develop a flood plain management and control program.

(3) The attached ordinance meets all of the requirements of a sound flood plain management and control program, and,

(4) The attached ordinance meets all of the requirements established by the Federal Government.

If there are any questions regarding this ordinance, please feel free to call on us.

Respectfully submitted,

CITY PLAN COMMISSION



Richard S. Wanush  
Senior Planner

RSW:pb  
ATT.

CC: Ivan A. Lebamoff, Mayor

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- 2
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bridge, conduit, culvert, building, wire, fence, rock, gravel refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede retard, or change the direction of the flow of water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

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- O N. "Regulatory Floodway" or "Floodway" - means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- P O. "River or Stream" - shall mean all open channels, whether natural, man-made, or modified by man, which carry or discharge water;

Section 42. The area<sup>Y</sup> extent of the flood hazard area, regulatory floodway, floodway fringe, the peak discharge and the flood profile shall be determined by the INRC utilizing the best available technology and shall be approved by the administrator of HUD and the City Plan Commission.

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Enforcement Officer must ascertain whether said use or accompanying structure will be detrimental to the objectives identified in Section 40. A. (1) - (11).

- Approval*
- B. Procedure to be followed in passing on special permit. All construction, building, alteration of structures or land, change of use, or initiation of a new use will require a "special use permit" before the issuance of an Improvement Location Permit. This "Special Use Permit" shall be granted by the Commission.

C. Procedures Being Followed Regarding Construction In Hazard General Flood Plain District.

*Approval*

(1) All plans submitted to the City Plan Commission for either approval by the Commission or application for Improvement Location Permits will be checked against the official Zoning Map. If the site location falls within a flood hazard area a location map and letter will be submitted to the Department of Natural Resources for their recommendation. Until comment is received from the Indiana Department of Natural Resources NO action will be taken by the City Plan Commission.

*Approval*

(2) Based upon the technical evaluation of the IDNR, the Zoning Enforcement Officer shall determine and evaluate the specific flood hazard at the site and shall determine the suitability of the proposed use in relation to the potential flood hazard.

Section 46. Floodway Districts. (FW)

- A. Permitted uses within a regulatory floodway district. The following land uses have acceptable low flood damage potential and shall not require a special permit for construction in the floodway, provided they do not involve any structure, obstruction, deposit, or excavations. This list is intended to include examples of open space uses which will not adversely affect the efficiency of or unduly restrict the capacity of the regulatory floodway and are reasonably tolerant of the presence of flood waters.

(1) Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.

(2) Forestry, wildlife areas, and nature preserves.

(3) Park and recreational uses, such as golf courses, driving ranges, and play areas.

- B. Special Exception Uses - Floodway Districts. The following uses of land may have unacceptable flood damage potential; involve structures, obstructions, deposits, or excavations which may adversely affect the efficiency of or unduly restrict the capacity of the regulatory floodway; constitute an unreasonable hazard to the safety of life or property; or result in unreasonable detrimental effects upon fish, wildlife, and botanical resources. These uses will require a special permit for construction in the floodway as provided in special permit uses, of this ordinance. In general, these uses involve water management.
- Copy  
Copy*

structures, transportation facilities, temporary or seasonal flood plain occupancy, or public, industrial, and commercial uses which are either dependent on their proximity to water or are reasonably open in nature and flood tolerant.

- (1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs, and irrigation facilities.
- (2) Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroads, and utility transmission facilities.
- (3) Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boar ramps, camps, roadside stands, and transient amusement facility sites.
- (4) Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities, and water treatment facilities.
- (5) Other flood tolerant or open urban uses, such as flood-proofed industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theatres, fills, truck freight terminals, radio or TV towers, parking lots, and mineral extractions.

#### C. Standards for Floodway Special Use Permit Uses.

All Uses. No structure (temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a special exception use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases heights.

Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.

In addition all floodway special-permit uses shall be subject to the following standards (D) (1) - (5).

#### D. Procedures for Development Within Floodway.

(1) Any use listed in this ordinance as requiring a special use permit may be allowed only upon application of the zoning administrator on forms furnished by him and issuance of a special permit by the Board. Upon receipt of the application the administrator shall forthwith submit it to the Board.

(2) Procedure to be followed by the Board in passing on special permits. Upon receiving an application for a special permit involving the use of fill, construction of structures, or storage of materials, the Board shall, prior to rendering a decision thereon; request and receive the recommendation of the INDR as to the suitability of the proposed use in relation to the flood hazard. In passing upon such applications, the Board shall consider all relevant factors specified in other sections of this ordinance:

- a. The danger of life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood or ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this ordinance.

#### E. Fill

- (1) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- (2) Such fill or other materials shall be protected against erosion by riprap, vegetation cover, or bulkheading.

#### F. Structures (temporary or permanent)

- (1) Structures shall not be designed for human habitation.
- (2) Structures shall have a low flood-damage potential.
- (3) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flow of flood waters.

b. So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.

(4) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and,

(5) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood-protection elevation for the particular area or flood-proofed.

#### G. Storage of Material and Equipment

(1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life it prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

#### Section 47. Floodway-Fringe District (FF)

A. Floodway Fringe District. All facilities, structures, and buildings normally found in a community, such as businesses, medical facilities, community and government buildings, industrial facilities, restaurants, commercial facilities, storage facilities, utility buildings, amusement facilities, residential buildings, and civic or fraternal facilities, may be constructed in a floodway fringe district provided that the flood protection grade for all buildings shall be at least or above the regulatory flood profile.

B. Procedure - All construction in a Floodway-Fringe District must follow the procedures at outlined in Section 45-C.

Section 48. Conditions attached to special permits. Upon consideration of the factors listed above and the purpose of this ordinance, the Board may attach such conditions to the granting of special permits or variances as it deems necessary to further the purposes of this ordinance.

Section 49. Time for acting on application. The Board shall act on an application in the manner above described within thirty (30) days from receiving the application, except that where additional information is required by the Board pursuant to Section 45 of this Ordinance, the Board shall render a written decision within sixty (60) days from the receipt of such information.

Section 50. Nonconforming Uses. All land uses now existing in flood hazard areas not in full compliance with this rule shall be considered a nonconforming use. Except for normal maintenance, any building which constitutes a nonconforming use may be altered, repaired, enlarged, or extended, provided such alterations, repairs, enlargements, or extensions do not increase the value of the building, excluding the value of the land, by more than fifty percent (50%) of its pre-improvement market value, and the laterations, repairs, enlargements, or extensions are not otherwise prohibited or restricted by state law or local ordinances. Any building which constitutes a nonconforming use which is damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimensions and condition, provided

the damage does not reduce the value of the land, by more than fifty percent (50%) of its pre-damaged market value. Any repairs, alteration, enlargements, or extensions, of any existing nonconforming use which does not involve a building is subject to the provisions of this ordinance.

- Section 51. Warning and Disclaimer of Liability. The degree of floor protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice or debris jams. This ordinance does not imply that area outside flood hazard areas, as defined herein, will be free from flooding or flood damages. This ordinance does not create liability on the part of the State of Indiana, the INRC, the Board or the City of Fort Wayne, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this rule or any administrative decision lawfully made thereunder.
- Section 52. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

  
John Shuckley  
Councilman

APPROVED AS TO FORM  
AND LEGALITY,

  
Ted H. O'Connor  
CITY ATTORNEY



## THE CITY OF FORT WAYNE

office of city plan commission

May 23, 1974

Members of the Common Council  
City-County Building  
One Main Street  
Fort Wayne, Indiana 46802

Gentlemen and Mrs. Schmidt:

Attached hereto is a copy of a resolution pertaining to one (1) zoning ordinance amendment concerning the amendment of the Zoning Ordinance (General Ordinance Number 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). This resolution was acted upon by the City Plan Commission at their regular meeting held May 20, 1974.

This is an ordinance amending the Zoning Ordinance of the City of Fort Wayne, Indiana, by adding thereto "Article X, Flood Plain Management and Control".

Through this resolution, the Plan Commission hereby petitions the Common Council to introduce the attached ordinance and refer it back to the Plan Commission for further study.

If there are any questions with regard to this ordinance, please feel free to call on us.

Respectfully submitted,

CITY PLAN COMMISSION

Richard S. Wanush  
Senior Planner

RSW:pr  
ATT.

cc: Mayor Ivan Lebamoff

RESOLUTION FOR ZONING ORDINANCE AMENDMENT

RESOLVED, that the Fort Wayne City Plan Commission request that the Fort Wayne City Council introduce the attached ordinance concerning an amendment to the Zoning Ordinance by adding thereto "Article X, Flood Plain Management and Control".

BE IT FURTHER RESOLVED that the City Council refer said ordinance to the City Plan Commission for further study and for a public hearing.

Certified and signed this  
23rd day of May, 1974.



\_\_\_\_\_  
Thomas J. Offerle  
Secretary

Bill No. G-74-05-47 (AMENDED)

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance  
Amending Chapter 36 of the Municipal Code of the City of  
Fort Wayne, Indiana, by adding thereto "Article X. Flood Plain  
Management and Control."

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance Do PASS.

John Nuckols - Chairman

Vivian G. Schmidt - Vice-Chairman

William T. Hinga

Paul M. Burns

Donald J. Schmidt

*John Nuckols*  
*Vivian G. Schmidt*  
*William T. Hinga*  
*Paul M. Burns*

DATE 6-11-74 CONCURRED IN  
CHARLES W. WESTERMAN, CITY CLERK



CITY OF FORT WAYNE

FORT WAYNE, INDIANA

CHARLES W. WESTERMAN  
CITY CLERK

June 14, 1974

Miss Helen Libbing  
Fort Wayne Newspapers, Inc.  
600 West Main Street  
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates June 17 and June 24, 1974, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council  
of Fort Wayne, Indiana for the  
following Ordinances:

Zoning Map Ordinance No. Z-13-74

Zoning Map Ordinance No. Z-14-74

Zoning Map Ordinance No. Z-12-74

Zoning Map Ordinance No. Z-11-74

General Ordinance No. G-17-74

General Ordinance No. G-15-74

Please send us six (6) copies from each newspaper of the Publisher's Affidavit.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Charles W. Westerman".

Charles W. Westerman  
City Clerk

CWW/ne  
ENCL: 6



profile shall be determined by the INRC utilizing the best available hydrology and shall be approved by the Commission.

#### Section 43. Establishment of District

**Borough of Zionsville**  
The mapped flood-prone areas within the jurisdiction of this ordinance are designated as the GENERAL FLOOD PLAIN DISTRICT (GFD). The boundaries of this district shall be shown on the map in Zoning Map. Any district or area not permissible by right or as special-permit uses shall be delineated in the applicable District Boundaries Change.

The "General Flood-Plain District" shall be divided into a "Floodway (FW)" and a "Floodway Fringe (FF) District" upon recommendation of the INRC and the Commission. When this division occurs the provisions outlined in Section 46 and 47 of this ordinance take effect.

#### Section 45. General Flood Plain District.

**(G)** General Provisions and Uses. It is the intent of this ordinance to control and manage the use of lands within the General Flood Plain (GFP) so as to meet the objectives identified and summarized over the following sections. However, before an Improvement Location Permit can be issued for any permitted use, the Zoning Enforcement Officer must ascertain whether said use or accompanying structures will be defined to the applicable requirements in Section A. (1)

**(1)** General Use Permit. All construction, buildings, alteration of structures or land, change of use, or initiation of a new use in the GFP shall require a "general use permit" before the issuance of an Improvement Location Permit. This "General Use Permit" shall be granted by the Zoning Enforcement Officer.

#### C. Procedures Being Followed Regarding Construction in General Flood Plain District.

(1) All plans submitted to the Commission for either approval or the Commission's review of an Improvement Location Permits will be checked against the official Zoning Map. If the site location falls within the GFP, a letter of location map and letter will be submitted to the INRC for their review and comment. Until such time is received from the INRC NO action will be taken by the Commission.

(2) Based upon the technical evaluation of the INRC, the Zoning Enforcement Officer shall determine and evaluate the specific characteristics of the proposed use to determine the suitability of the proposed use in relation to the potential flood hazard. After final review of the application materials file for hearing before the Commission if he so chooses. The applicant shall have the burden of proof to establish that the permit was wrongfully denied.

Upon receipt of comments by the INRC, he finds that the proposed use is unacceptable due to the potential flood hazard, he shall deny the application for a "General Use Permit". The applicant may file for hearing before the Commission if he so chooses. The applicant shall have the burden of proof to establish that the permit was wrongfully denied.

Both the Commission and the Zoning Enforcement Officer shall consider the factors listed in Section 46 D (2) when making their decision on the suitability of the proposed use.

#### Section 46. Floodway Districts. (FW)

**A. Permitted uses.** All regulatory floodway uses, The following land uses have acceptable low flood damage potential and shall not require a special permit except where specifically provided they do not involve any structure, obstruction, deposit, or accumulation. This list is intended to include examples of open space uses which will not adversely affect the safety of life or property and the capacity of the regulatory floodway and are reasonably tolerant of the presence of floodwater.

(1) Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards, and general farming.

(2) Rangeland, wildlife areas, and nature preserves.

(3) Park and recreational uses, such as golf courses, driving ranges, and play areas.

#### B. Special Exception Uses -- Floodway Districts.

Any use of land within the floodway may have unacceptable flood damage potential; involve structures, obstructions, deposits, or accumulation which may affect the efficiency of or unduly restrict the capacity of the regulatory floodway, constitute an unreasonable hazard to the safety of life or property; or result in significant damage to or death upon fish, wildlife, and botanical resources. These uses will require a "Special Permit" issued by the Zoning Enforcement Officer for use within the Floodway as provided in "Special Permit" uses of this ordinance. In certain cases, involving water management structures, transportation facilities, temporary or seasonal floodplain occupancy, or pure industrial or commercial uses which are either dependent on their proximity to the floodway or are reasonably tolerant in nature and flood tolerance.

(1) Water management and use facilities, such as dams, dikes, levees, ditches, river channel improvements, dikes, jetties, groins, marinas, piers, wharves, and associated floodplain and transient management facilities.

(2) Transportation facilities, such as streets, bridges, roadways, roads, airports, pipe lines, railroads, and utility transmission facilities.

(3) Temporary or seasonal flood plain occupancy, such as circus sites, fair sites, carnival sites, boat ramps, campsites, temporary and transient management facility sites.

(4) Water-related urban facilities, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities, and water treatment facilities.

(5) Other flood tolerant or dependent uses, such as residential, selected industrial and commercial buildings, race tracks, tennis courts, park buildings, outdoor theaters, hills, embankments, television towers, TV towers, parking lots, and mineral extractions.

**C. Standards for Floodway Special Use Permit Uses. All Uses.** No structure (temporary or permanent), including fill, sand, rocks, and levee deposit, obstruction, storage of materials or equipment, or other items may be placed on a specific location use which, acting alone or in combination with existing or future uses, unduly increases the height of the floodwater or unduly increases heights. Consideration of the effects of a proposed use on adjacent properties shall be made assuming that there will be an equal degree of encroachment extending a sufficient distance on both sides of the stream. In addition all floodway special-permit uses shall be subject to standards contained in Section 46 D (2) of this Article.

**D. Procedures for Development Within Floodway.**  
(1) Any use listed in this ordinance as requiring a special use permit may be allowed only upon application to the Zoning Enforcement Officer and forms furnished by the Commission for issuance of a "Special Permit". Upon receipt of the application the Zoning Enforcement Officer shall forward it to the Commission.

(2) Procedure to be followed by the Commission in passing on special permits. Upon receiving an application for a special use permit, the Commission shall conduct a review of the proposed use, including the location, or storage of materials, the Commission shall, prior to rendering a decision, request and receive the recommendation of the INRC as to the suitability of proposed use for the flood hazard. In passing upon such applications, the Commission shall consider all relevant factors specified in section 46 of this ordinance.

(a) The danger of life and property due to increased flood heights or velocities caused by encroachments.

(b) The potential for materials may be swept away to other lands or downstream to the injury of others.

(c) The danger to water supply and sanitation systems and the ability to these systems to prevent flooding conditions.

(d) The susceptibility of the proposed facility and its components to damage and/or effect such damage on the individual owners.

(e) The importance of the services provided by the proposed facility to the community.

(f) The potential for flooding of the facility for a

water front locations  
c. the availability of alternative locations not subject to flooding for the proposed use.

h. the compatibility of the proposed use with existing development and development anticipated in a foreseeable future.

i. the relationship it is proposed use to the comprehensive plan and floodplain management program for the area.

j. the ability of the property in times of emergency or ordinary use to accommodate emergency vehicles.

k. the expected heights, velocity, duration, and flow, and sediment transport of the flood waters expected at the site.

l. the potential impact of the use relevant to the purposes of this ordinance.

E. Fills

(1) Any fill proposed to be deposited in the floodway must be shown to have some purpose which makes the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan showing the proposed filling area to which the filled land will be put and the materials used in the proposed fill or other materials.

(2) Such fill or other materials shall be protected from erosion by a vegetated cover, or bulkheading.

F. Structures and Equipment

(1) Structures shall not be designed for human habitation.

(2) Structures shall have a low flood-damage potential.

(3) Buildings or structures, if permitted, shall be constructed only placed on the building site so as to offer the minimum protection to the surrounding waters.

d. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flow of floodwaters.

b. So far as practicable, structures shall be placed approximately in the same floodway lines as those of existing structures.

c. Buildings shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge spans, or damage to the sections of the stream or river; or

d. Buildings and facilities such as electrical and heating equipment, shall be constructed at or about the regulatory flood profile or elevation of the particular area or flood-ordered.

G. Storage of Materials and Equipment

(1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or otherwise injurious to human, animal, or plant life is prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major flooding, if the material is sheltered to prevent flotation or if it readily removable from the area within the time available after a flood has occurred.

Section 47. Floodway-Fringe District.

(F) Floodway-Fringe District. All facilities, structures, and equipment found in a fringe area, such as business, medical facilities, community and government buildings, schools, libraries, restaurants, commercial facilities, shopping facilities, utility buildings, amusement facilities, residential buildings, and other facilities which are not specifically situated in a floodway fringe district provided that the value of the building or oil buildings shall be least of or about the regulatory flood profile and that the zoning does not permit otherwise.

B. Procedure. Before the issuance of an application for a variance, the Building Enforcement Officer shall determine that the proposed use meets the requirements of this ordinance.

Section 48. Conditions Attached to Special Permits.

Upon consideration of the factors listed above and the purposes of this ordinance, the County Board may grant a variance to or granting of special permits and variances as may be necessary to further the purposes of this ordinance.

Section 49. Nonconforming Uses.

All nonconforming uses and hazard areas not in full compliance with this rule shall be considered nonconforming. Except for minimal maintenance, any building which constitutes a nonconformance use may be altered, enlarged, or extended, provided such alterations, repairs, enlargement, or extension do not increase the value of the building, exceeding the value of the land, by more than fifty per cent of its pre-existing market value, and the alterations, repairs, enlargements, or extensions do not change the predominant character of the site or local ordinances. Any building which constitutes a nonconforming use and is damaged by flood, fire, explosion, act of God, or the public enemy, may be raised to its original height and dimensions, provided the damage does not exceed the value of the building by more than fifty (50 per cent) of its pre-existing market value. Any repair, alteration, enlargement, or extension of a building which is nonconforming use which does not involve the building is subject to the provisions of this ordinance.

Section 50. Variance.

This section prescribes standards and procedures essential to assure adequate protection to present and future uses within the area. It is known that there may be a need from time to time, to permit variances in the strict application of the rules in certain cases within areas which are almost entirely developed. The Board may grant such variances as follows:

(1) If the proposed use is located on a site of one half acre or less and is surrounded by existing structures; and,

(2) If the proposed use can be granted the variance; and,

(3) If the proposed use would result in extreme hardship to the owners of the lands; and,

(4) If reasonable efforts are made to minimize potential flood damages.

If the above criteria are not met according to the above, it must give written notice to the applicant. This written notice shall contain the following:

(1) The fact that the proposed structure will be located in a floodway;

(2) The number of feet that the lowest floor of the proposed structure will be below the 100-year flood level;

(3) The fact that the flood insurance rates will be increased commensurate with the distance below the 100-year flood level;

This notice shall be attached to the building permit and must be displayed with it.

Section 51. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is not absolute. Protection for regulatory purposes and is based on engineering judgment and experience. Longer floods can and will occur on rare occasions. Flood heights may be increased by debris jams, ice jams, or debris jams, or ice or debris jams. This ordinance does not impair that area outside those flood zones, as defined herein, with free from all flooding or flood damages. This ordinance does not affect the rights of the State of Indiana, the INRC, the Board of Commissioners of the City of Fort Wayne, or any elected or appointed official or employee adopted, placed on its passage, PASSED BY THE BOARD OF COMMISSIONERS.

Ave: none

Burns, Hingo, Kraus, Moses, Nuckles,

D. Coughlin, Schmidt, Sifer, Telerica

Date: 6-17-74

CHARLES W. WESTERMAN (Seal)

Passed and adopted by the Clerk

Council of the City of Fort Wayne, Indiana,

On the Ordinance No. 5-17-74 on the

11th day of June, 1974.

ATTEST:

JOHN NICKOLS, Councilman

Reed the third time and on motion

by Nickols, the motion was duly adopted, placed on its passage, PASSED BY THE BOARD OF COMMISSIONERS.

Ave: none

Burns, Hingo, Kraus, Moses, Nuckles,

D. Coughlin, Schmidt, Sifer, Telerica

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11th day of June, 1974.

ATTEST:

JOHN NICKOLS, Councilman

Reed the third time and on motion

by Nickols, the motion was duly adopted, placed on its passage, PASSED BY THE BOARD OF COMMISSIONERS.

Ave: none

Burns, Hingo, Kraus, Moses, Nuckles,

D. Coughlin, Schmidt, Sifer, Telerica

Date: 6-17-74

CHARLES W. WESTERMAN (Seal)

Passed and adopted by the Clerk

Council of the City of Fort Wayne, Indiana,

On the Ordinance No. 5-17-74 on the

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Date: 6-17-74



Fort Wayne Common Council .....  
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

## PUBLISHER'S CLAIM

## LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)  
— number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

## COMPUTATION OF CHARGES

.653 lines, 1 columns wide equals .653 equivalent lines at .288¢ per line \$188.06

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

\$190.06

## DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date June 26, 1974

Title CLERK

## PUBLISHER'S AFFIDAVIT

State of Indiana } as:  
ALLEN County }

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

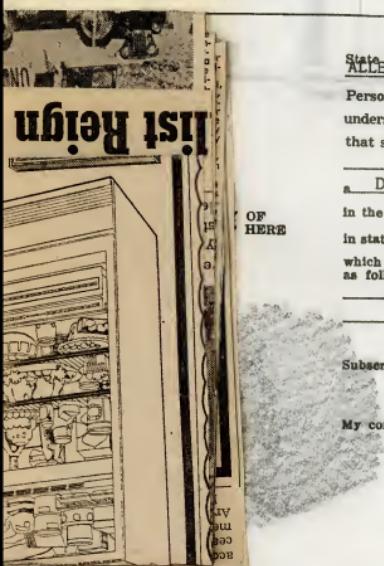
JOURNAL-GAZETTE  
a DAILY newspaper of general circulation printed and published in the English language in the city } of FORT WAYNE, INDIANA  
in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time(s), the dates of publication being as follows:

6/17-24/74

Subscribed and sworn to before me this 26 day of June 1974

Conrad C. Rehder  
Notary Public

My commission expires October 25, 1975



Notice is hereby given that on the 11th day of June, 1974, the Common Council of the City of Fort Wayne, Indiana, in its regular session did pass the following Bill No. G-74-05-7 (AMENDED) G-17-74 General Ordinance, to wit:

Bill No. G-74-05-7 (AMENDED)  
General Ordinance No. G-17-74.

An Ordinance amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, adding thereto "Article X—Flood Plain Management and Control."

WHEREAS, the flood hazard areas of Fort Wayne, Indiana are subject to loss of life and property, health and safety hazards, damage of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and limitation of economic development which adversely affect the public health, safety, and general welfare; and

WHEREAS, flood related losses are caused by (1) cumulative effect of obstructions in flood heights and velocities; (2) the occurrence of flooding in areas which are vulnerable to floods or hazardous to other lands are inadequately elevated or otherwise protected from flooding; and

WHEREAS, to push back the cost of flood control, now and state, relies on flood management and shifting the burden of heavy emphasis on structural controls to a balance between structural and regulatory controls;

NOW, THEREFORE, BE IT ORDAINED, By the Common Council of the City of Fort Wayne, Indiana,

Chapter 36, of the Municipal Code of the City of Fort Wayne, Indiana, is, and is hereby amended, is hereby amended by adding thereto the following Article:

Article X—Flood Plain Management and Control

Section 40. General Criteria for Floodplain Protection

A. Objectives—the objective of these criteria are to provide a uniform basis for the implementation and enforcement of sound flood plain regulations for Fort Wayne's rivers and streams;

(1) Protect individuals from flooding;

(2) Protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards;

(3) Provide for public awareness of the flooding potential;

(4) Minimize public and private property damage;

(5) Minimize surface and ground-water pollution which will affect human, animal, and environmental health;

(6) Control flood-plain uses such as fill, dumping, storage of material, structures, buildings, and other works which acting alone or in combination with other existing or future uses which will cause damage to property, health, safety, or by obstructing flows and reducing valley storage;

(7) Control development which will, when acting alone or in combination with similar developments, create an unjustified burden for the public to pay the cost of flood-control works by requiring that uses vulnerable to floods, including public facilities, be required to bear the costs, shall be protected against flood damage at the time of initial construction;

(8) Control development which will, when acting alone or in combination with similar developments, create an unjustified burden for the public to pay the cost of flood-control works by requiring that uses vulnerable to floods, including public facilities, be required to bear the costs, shall be protected against flood damage at the time of initial construction;

(9) Control development which will, when acting alone or in combination with similar developments, create an additional burden for the public to pay the costs of rescue, relief, and other protective measures, sandbagging, pumping and temporary dikes or levees;

(10) Control development which will, when acting alone or in combination with similar developments, create an additional burden for the public to pay the cost of flood-control works by requiring that users result in loss of wages, sales, production, and profits;

(11) Help maintain a stable tax base by the preservation or enhancement of property values resulting from wise development. In addition, development of future flood-plain areas on flood plains will be encouraged so long as the tax base adjacent to the flood plain will be preserved;

Section 41. Definitions — Whenever used or referred to in this ordinance unless a different meaning appears from the context:

A. "Boards" — Board of Zoning Appeals  
B. "Commission" — Fort WAYNE City  
C. "Flood" or "Flood Water" — means the water of a river or stream, or of any lake or upon or adjoining any boundary line of the State which is above the bank and/or outside the channel and banks of such river or stream;

D. "Flood Hazard Areas" — means those areas of the flood plain which have not been adequately protected from flooding by the regulatory flood, by means of dikes, levees, reservoirs, or other works approved by the Commission;

E. "Flood Plain" — means the area adjoining the river or stream which has been or may be inundated by the regulatory flood;

F. "Flood-Proothing" — a combination of structures, materials, devices, or adjustments to properties and sites designed to protect from flooding primarily for the reduction of flood damages to properties, water and soil, facilities, structures, and contents of buildings in a flood-hazard area;

G. "Flood Protection Grade" — means the elevation of the lowest point around the perimeter of a building in which flood waters may enter the interior of the building;

H. "Floodway" (FW) see (M) "Regulatory Floodway";

I. "Floodway Fringe" (FF) — means those portions of the flood hazard areas lying outside the floodway;

J. "General Flood-Plain District" (GF) see (D) "Flood Hazard Areas";

K. "IRC" — The Indiana Natural Resources Commission

L. "Instructions" — dam, wall, wharf, embankment levee, dike, aisle, outfall, pipe, culvert, excavation, channel rectification, bridge, conduit, culvert, drop wire, fence, rock, gravel, refuse, fill, structures, embankments, zones, across or projecting into any channel, embankments, or regulatory flood-hazard area which may be required to control the direction of the flow of water or that is placed where the flow of water might carry the same downstream to the damage of life or property;

M. "Regulatory Flood" — means that flood hazard area which can be expected to be equaled or exceeded on the average of once in one hundred years, based on the best information and procedure which is acceptable to and approved by the Commission. This flood is dependent on the probability of occurrence of one percent in any given year;

N. "Regulatory Flood Profile" — means a longitudinal profile along the thread of a stream showing the maximum water surface elevation during a regulatory flood;

O. "Regulatory Floodway" or "Floodway" — means the channel of a river or stream and those portions of the flood plain bordering the channel which are reasonably required by officials to carry and discharge the peak flood flow of the regulated flood of any river or stream;

P. "River or Stream" — means all open channels, whether natural, man-made, or modified by man, which carry or discharge water;

Section 42. Flood Hazard Area Definition

The areal extent of the flood hazard area shall include all land as indicated on maps supplied by the U.S. Army Corps of Engineers, the Soil Conservation Service and the Department of Housing and Urban Development, and the boundaries of the floodway fringe, the peak discharge and the flood profile shall be determined by the INRC utilizing methods acceptable to them and shall be approved by the Commission;





## PUBLISHER'S CLAIM

B. Permits. After the issuance of an Improvement Location Permit, the Zoning Enforcement Officer shall determine that all requirements of the regulations and intent of this ordinance.

## SECTION 1. CONDITIONS ATTACHED TO "SPECIAL PERMITS".

Upon consideration of all the factors listed above, the Board may in its discretion and the Commission may attach such conditions to the granting of special permits and variances as it deems necessary to further the purpose of this ordinance.

## SECTION 2. CONSTRUCTION USES.

All land uses now existing in flood hazard areas not in full compliance with this rule shall be subject to the same rules.

Except for normal maintenance, any building which constitutes a nonconforming use may be altered, repaired, enlarged or extended provided such alterations, repairs,

etc., do not increase the value of the building, exclusive-

ly the value of the land, by more than fifty per cent of its pre-damaged market value, and the alterations, re-

pairs, enlargements, or extensions are not otherwise prohibited by any state or local ordinances. Any building which constitutes a nonconforming use and is damaged by flood, fire, explosion, act of God or the public enemy, may be repaired to its original condition and continued, provided the damage does not reduce the value of the building below 50 per cent (50 per cent) of its pre-damaged market value. Any repairs, alterations, enlargements, or extensions made to a nonconforming use which does not involve a building is subject to the provisions of this ordinance.

## SECTION 5G. Variances.

This section contains the standards and procedures essential to ensure reasonable protection to persons and property within the flood hazard area.

However, there may be a need from time to time, to permit variances from the requirements of this section for cases within areas which are almost entirely developed. The Board may grant such variances if the following conditions are met:

(1) The structure or use is located on a lot of one acre or less and is surrounded by existing structures; and,

(2) The proposed use or structure exists for granting the variance); and,

(3) Failure to grant the variance would result in undue hardship to the owners of the land; and,

(4) All feasible efforts are made to minimize potential flood damages.

If the Board grants a variance according to the above criteria, written notice shall be given to the applicant. This written notice shall contain:

(1) The fact that the proposed structure will be located in a flood-prone area;

(2) The fact that the lowest floor of the proposed structure will be below the base flood elevation;

(3) The fact that the flood insurance rate will be increased commensurate with the distance below the base flood level;

(4) The fact that the proposed structure will be required to be insured under Section 31, Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering studies and recommendations.

Larger floods can and will occur on rare occasions. Flood heights may be increased by major floods, such as the 1954 flood or ice or debris jams. This ordinance does not limit that area outside the hazard areas, as defined herein, from being free from flooding or flood damages. This ordinance does not control the activities of the State, the State of Indiana, the INRC, the Board, the Commission, or the City of Fort Wayne, or any other agency, department or organization theretofore for any flood damages that result from such activities, unless such activities are specifically decision lawfully made thereunder.

SECTION 42. Severability.

If any provision or part of any provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

JOHN NUCKOLS, Councilman

Read the third time in open and on motion by Nuckols, seconded by Hillman, my adopted, placed on its passage. PASSED by the following vote:

Ayes: nine  
Benn, Hinno, Kraus, Moses, Nuckols,

D. Schmidt, Schmidt, Sier, Talaric?

Nays: None

Date: 6-11-74.

CHARLES W. WESTERMAN  
City Clerk

Possessed and adopted by the Mayor of the City of Fort Wayne, Indiana, at General Ordinance No. G-17-74, on the 11th day of June, 1974.

ATTEST:

(Seal)  
CHARLES W. WESTERMAN  
City Clerk

SAMUEL J. TALARIC  
Pressing Officer

Presented to me by the Mayor of the City of Fort Wayne, Indiana, on the 11th day of June, 1974, at the hour of 10:00 o'clock A.M., E.S.T.

CHARLES W. WESTERMAN

Approved and signed by me this 12th day of June, 1974, at the hour of 2:00 o'clock P.M. E.S.T.

IVAN A. LEB MOFF

I, Charles W. Westerman, Clerk of the City of Fort Wayne, Indiana, do hereby certify that the foregoing is a true and complete copy of General Ordinance No. G-17-74, passed by the Common Council on the 11th day of June, 1974, and that said Ordinance was duly signed and certified by the Mayor of the City of Fort Wayne, Indiana, and now remains on file and on record in my office.

W. E. Gerken, and the official seal of the City of Fort Wayne, Indiana, this 12th day of June, 1974.

CHARLES W. WESTERMAN  
City Clerk

6-17-74.

Number of lines (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)

Number of lines

Fort Wayne Common Council  
(Governmental Unit)

To NEWS-SENTINEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

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Total number of lines in notice

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Charge for extra proofs of publication (50 cents for each proof in excess of two)

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TOTAL AMOUNT OF CLAIM

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## DATA FOR COMPUTING COST

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Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

*T.E. Seibers*

Date June 26 1974

Title Clerk

## PUBLISHER'S AFFIDAVIT

State of Indiana  
ALLEN County

Personally appeared before me, a notary public in and for said county and state, the undersigned, V.E. Gerken, who, being duly sworn, says that

She is Clerk of the NEWS-SENTINEL

a newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two time, the dates of publication being

as follows:

6/17-24/74

Subscribed and sworn to before me this, 26th day of June 1974

*T.E. Seibers*  
*John C. Remke*

Notary Public

My commission expires October 25, 1975